

FILED - LN

February 24, 2022 1:14 PM

CLERK OF COURT

U.S. DISTRICT COURT

WESTERN DISTRICT OF MICHIGAN

BY: eod / SCANNED BY: 60224

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN**

Derek Syroka  
\_\_\_\_\_  
\_\_\_\_\_

Plaintiff(s),

v

Eric Schertzing  
\_\_\_\_\_  
\_\_\_\_\_

Defendant(s).

Case No. **1:22-cv-169**  
Honorable **Janet T. Neff**  
U.S. District Judge

Deprivation of Civil Rights  
Title 42, Chpt 21, sub  
Section  
1983

**UNITED STATES DISTRICT COURT**  
**FOR THE WESTERN DISTRICT OF**  
**MICHIGAN**

**DEREK SYROKA**

Plaintiff

V.

**ERIC SCHERTZING**

Defendant

Case No. \_\_\_\_\_

Hon. \_\_\_\_\_

Jury Trial: ☒ Yes ☐ No

---

**Derek Syroka**

**2346 Anchor ct**

**Holt, MI 48842**

**517-221-9080**

**[derek.syroka@gmail.com](mailto:derek.syroka@gmail.com)**

**Eric Schertzing**

**P.O. Box 215**

**341 Jefferson st**

**Mason, MI 48854**

**517-676-7220**



again for the use of Mr. Syroka's property. This notice of hearing is for a case which has no defendants listed and no summons was issued. Mr. Schertzing's attorney Mr. Charles Lawler is the complaint petitioner for the foreclosure hearing and has drafted the complaint using in rem jurisdiction where the property in question is being sued and not the residents of the property. In rem is only authorized by law when the known owner is suspected of using it for criminal purposes or if the property was involved in a crime but the owner is unknown. See: United States v. 422 Casks of Wine, 26 U.S. 547 (1828), "...nature and order of the proceedings proper in suits in rem, whether arising on the admiralty or exchequer side of the Court. In such suits, the claimant is an actor, and is entitled to come before the Court in that character only, in virtue of his proprietary interest in the thing in controversy; this alone gives him a persona standi in judicio. It is necessary that he should establish his right to that character, as a preliminary to his admission as a party, ad litem, capable of sustaining the litigation. He is therefore, in the regular and proper course of practice, required in the first instance, to put in his claim, upon oath, averring in positive terms his proprietary interest. If he refuses so to do, it is a sufficient reason for a rejection of his claim. If the claim be made through the intervention of an agent, the agent is in like manner required to make oath to his belief of the verity of the claim; and if necessary, he may also be required to produce and prove his authority, before he can be admitted to put in the claim. If this is not done, it furnishes matter of exception, and may be insisted upon by the adverse party, for the dismissal of the claim. If the claim be admitted upon this preliminary proof, it is still open to contestation, and, by a suitable exceptive allegation in the admiralty, or, by a correspondent plea in the nature of a plea in abatement, to the person of the claimant, in the exchequer, the facts of proprietary interest, sufficient to support the claim,



51 may be put in contestation, and formally decided. It is in this stage of the  
52 proceedings, and in this only, that the question of the claimant's right is  
53 generally open for discussion. If the claim is admitted without objection, and  
54 allegations or pleadings to the merits are subsequently put in; it is a waiver of  
55 the preliminary inquiry, and an admission that the party is rightly in Court,  
56 and capable of contesting the merits. If indeed, it should afterwards appear,  
57 upon the trial, even after the merits have been disposed of in favour of the  
58 claimants, that the claimant had, in reality, no title to the property; but that the  
59 same was the property of a third person, who was not represented by the  
60 claimant, or had an adverse interest, or whose rights had been defrauded, it  
61 might still be the duty of the Court to retain the property in its own custody,  
62 until the true owner might have an opportunity to interpose a claim, and  
63 receive it from the Court.”<sup>1</sup>

64 This is why one of the documents reflecting ownership that Mr. Syroka  
65 sent to the clerk of the court was the notarized affidavit making it a sworn  
66 statement (oath) under penalty of perjury. This authorized Mr. Syroka’s right  
67 to be made party to the case by United State Supreme Court precedent. Mr.  
68 Syroka’s house attached to the property in litigation is valued at \$250,000.00  
69 fair market value. The legal notice says that occupants of the land will lose  
70 their property if foreclosure completes for a fine of \$16,260.52. This  
71 punishment on just these numerical factors is 15 times greater than the fee or  
72 fine in question. This is excessive by legal precedent and violates the 8th  
73 Amendment of the United States Constitution. See *Timbs v. Indiana*, 586 U.S.  
74 (2019):

---

<sup>1</sup> <https://www.law.cornell.edu/constitution/syllabus-1>

75 “At the time of Timbs’s arrest, the police seized a Land Rover SUV Timbs had  
76 purchased for \$42,000 with money he received from an insurance policy  
77 when his father died. The State sought civil forfeiture of Timbs’s vehicle,  
78 charging that the SUV had been used to transport heroin. Observing that  
79 Timbs had recently purchased the vehicle for more than four times the  
80 maximum \$10,000 monetary fine assessable against him for his drug  
81 conviction, the trial court denied the State’s request. The vehicle’s forfeiture,  
82 the court determined, would be grossly disproportionate to the gravity of  
83 Timbs’s offense, and therefore unconstitutional under the Eighth  
84 Amendment’s Excessive Fines Clause.”

85 “Held:

86 ... (b) The prohibition embodied in the Excessive Fines Clause carries  
87 forward protections found in sources from Magna Carta to the English Bill of  
88 Rights to state constitutions from the colonial era to the present day.  
89 Protection against excessive fines has been a constant shield throughout  
90 Anglo-American history for good reason: Such fines undermine other  
91 liberties. They can be used, e.g., to retaliate against or chill the speech of  
92 political enemies. They can also be employed, not in service of penal purposes,  
93 **but as a source of revenue.** The historical and logical case for concluding that  
94 the Fourteenth Amendment incorporates the Excessive Fines Clause is indeed  
95 overwhelming. Pp. 3–7.”<sup>2</sup>

96  
97  
98  

---

2 Ex parte Timbs, 140 S. Ct. 1551, 1568–69 (2020).

**EXHIBITS/EVIDENCE**

1	RETURNED MAIL FROM 30 <sup>TH</sup> CIRCUIT COURT	INGHAM COUNTY DIDN'T ADMIT AN AFFIDAVIT TO COURT RECORD AND THEN EXCUSED PROPERTY
2	FAX RECEIPT	PROOF OF SERVICE
3	NOTARIZED AFFIDAVIT	PROPER CLAIM SUBMISSION FOR IN REM PROCEEDINGS
4	DECLARATION OF LAND CLAIM	SINCE THERE IS NO LONGER A PHYSICAL TITLE ISSUED FOR LAND
5	VETERAN'S EXEMPTION FROM STATE TAX	MR. SYROKA IS 100% VA DISABLED AND WOULD QUALIFY FOR TAX EXEMPTION BUT UNNECESSARY SINCE HE'S NOT A CITIZEN OF STATE OF MICHIGAN
6	DOMICILE (LEGAL RESIDENCY)	MR. SYROKA RESIDES IN THE WESTERN DISTRICT OF MICHIGAN, NOT THE STATE OF MICHIGAN, INGHAM COUNTY OR DELHI TOWNSHIP

7	NOTICE OF HEARING	NOT A SUMMONS, DEPRIVES CONSTITUTIONAL RIGHTS
8	TRANSCRIPT SECTION OF 19-425-CZ	LINE 13, ATTORNEY FOR TREASURER ADMITS THE ACTION IS IN REM
9	POST HEARING EMAIL CORRESPONDENCE	MR. SYROKA INFORMS THE PLAINTIFFS THAT THEIR ACTIONS ARE ILLEGAL
10	NOTICE OF FORECLOSURE EXTENSION	THE TIME PERSCRIBED BY NOTICE IS ALSO WHEN MR. SYROKA'S PROPERTY WAS REMOVED FROM PROCEEDINGS
11	FINAL ORDER FOR CASE 20-307-CZ, (2 PAGES)	PROOF MR. SYROKA'S PROPERTY WAS REMOVED FROM THE CASE
12	NOTICE OF HEARING 21-394-CZ	CONTINUANCE OF LEGAL ACTIONS THAT OCCURRED IN A CASE MR. SYROKA'S PROPERTY WAS REMOVED FROM ORIGINALLY




13	BLACK'S LAW DEFINITIONS (2 PAGES)	INGHAM COUNTY TREASURER ONLY  MENTIONS A LEVEL OF OWNERSHIP  FOR WHEN PROPERTY IS  FORECLOSED
14	LEGAL DICTIONARY'S EXPLANATION FOR IN REM PROCEEDINGS (3 PAGES)	NOTHING MENTIONED ABOUT  PROPERTY TAX FORECLOSURE
15	TREASURY STATE COMMISSIONERS (2 PAGES)	PROOF OF COURT OF  ADMINISTRATIVE, EXECUTIVE  POWER AND NOT  CONSTITUTIONALLY JUDICIAL
16	CLASSIFIEDS EXPLANATION	LEGAL NOTICE CAN BE SENT BY  BROAD PUBLICATION AS MR.  SYROKA HAS DONE
17	STATE TAX COMMISSION BULLETIN (3 PAGES)	PROPERTY FOREFITED IN ERROR +  PROOF OF ADMINISTRATIVE COURT

**AUTHORITY**

This court has original jurisdiction to adjudicate this complaint under Title 28 USC chapter 85, subsection 1331 (Federal Question) as this complaint alleges deprivation of U.S. Constitutional rights under Title 42, USC chapter 21, subsection 1983.

**RESTITUTION**

The petitioner requests this Court grant the Ex Parte Restraining order and cease all legal actions by Eric Schertzing pertaining to the above described property until a new and proper Land Contract that is U.S. Constitutionally compliant can be settled between Ingham County and Derek Syroka through the performance of injunctive relief. Injunctive relief is proper remedy in the absence of Declaratory Decree violation or Declaratory Relief was made unavailable, in accordance with Title 42 Chapter 21, subsection 1983 in the United States Code.

  
Derek Syroka  
2-24-2022